

Appeal Decisions

Site visit made on 14 May 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2024

Appeal A Ref: APP/A5270/W/23/3329584

Unit C, 7 Wadsworth Road, Greenford UB6 7JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ahmed Ajjour against the decision of the Council of the London Borough of Ealing.
 - The application Ref is 223915FUL.
 - The development proposed is described as change of use from garage to café seating area.
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Appeal B Ref: APP/A5270/W/23/3329582

Unit C, 7 Wadsworth Road, Greenford UB6 7JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ahmed Ajjour against the decision of the Council of the London Borough of Ealing.
 - The application Ref is 223914FUL.
 - The development proposed is described as erect front extension to provide seating area for existing café.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. There are two appeals relating to the same site. They are intrinsically linked and raise similar issues. While considering each on its merits, I have dealt with both in a single decision letter to avoid repetition.
4. The plan numbers listed on the decision notice for Appeal B are different to those submitted with the appeal. The Council has confirmed that this is an error and the plans submitted with the appeal are those that they determined. The appellant has also confirmed that the plans submitted are those that formed the planning application submission.
5. The planning application form for Appeal B indicates that the development has not commenced. However, the submitted existing and proposed plans show

the same front extension. I also saw a front extension at my site visit. For clarity, I have based my decision on the submitted plans.

Main Issues

6. The main issues with respect to Appeal A and B are:

- the effect of the proposals on the Strategic Industrial Location; and,
- whether the proposals make appropriate provisions for car and cycle parking.

7. There is an additional main issue with respect to Appeal B only which is:

- the effect of the proposal on the character of the area.

Reasons

Strategic Industrial Location – Appeal A and B

8. The appeal site is located within a designated Strategic Industrial Location (SIL). Policies E4, E5 and E7 of the London Plan 2021 (the LP) set out the industrial land strategy. These policies amongst other things, aim for a sufficient supply of land and premises in different parts of London to meet current and future demands for industrial and related functions. They also seek to ensure that SILs are sustained as London's largest concentrations of industrial, logistics and related capacity and that development proposals do not compromise the integrity or effectiveness of these locations.
9. The proposals relate to a use which would not be regarded as industrial in nature and would therefore not be promoted by the aforementioned industrial land strategy.
10. In the case of Appeal A, the planning application form lists the existing use of the building as B2 General Industrial. The proposal would therefore result in the loss of industrial land within the SIL and would prevent the site from being used for industrial purposes. As a result of this, the proposal would not put the appeal site to effective use. This would not be mitigated by the fact that the appeal site would occupy a small proportion of the SIL.
11. In the case of Appeal B, there would be no loss of industrial land as the proposal relates to an extension.
12. SILs typically accommodate activities which by virtue of their odours, dust emissions and vehicular movements can raise tensions with other land uses. The expansion of a non-conforming use within this industrial location could lead to complaints resulting in the existing industrial activities being limited or curtailed. It could also result in difficulty for new businesses for industrial purposes to move into the nearby premises. Consequently, in both appeals, the proposals would not be compatible with the SIL and the integrity and effectiveness of the SIL would therefore be compromised, to the detriment of its long-term viability.
13. Although part B 3) of Policy E5 of the LP refers to opportunities to intensify and make more efficient use of land in SILs, this is in the context of

Development Plan reviews and through Opportunity Area Planning Frameworks to sustain the SILs. As the proposals would not support the continued functioning of the SIL and instead seek to enlarge a non-employment use, intensification in the manner proposed would not be acceptable.

14. Policy 4A of the Development Management Development Plan Document 2013 (the DPD) states that where retaining a building or site in employment use is not viable the Council will seek mixed use development which maximises the number of jobs provided. The supporting text to this policy defines employment uses as those which fall within the B Use Classes and other closely related uses commonly found on employment sites. I consider that this policy would only apply to Appeal A as it relates to the change of use of the building.
15. The appellant asserts that the previous use of the site in Appeal A, was no longer sustainable and the freeholder for the site has stated that the premises were marketed for over 18 months with no interest. However, no robust evidence has been submitted to support these assertions to demonstrate that retaining the building in employment use would not be viable. Even if retaining the building for an employment use was no longer viable, the proposal does not seek a mixed use development and whilst jobs would be created, I have not been provided with any substantive evidence that a similar number of jobs could not be created through a SIL-compliant use.
16. The planning history includes the construction of a new building at the appeal site¹. The decision was in draft form but would have allowed for a mixed use development which included the sale of food and drink on the ground floor as well as uses for industrial purposes, general industrial and storage or distribution. This differs from the appeal schemes as neither proposal includes other uses that would be compatible with the SIL. The application was also not formally granted permission and it predates the adoption of the LP. This draft decision does therefore not weigh in support of either appeal.
17. In Appeal A, the appellant refers to a similar neighbouring use. However, its planning status is unclear. My attention has also been drawn to approved developments at 23 Aintree Road² and 7 Ruislip Road³. As I have only been provided with a copy of the decision notice for each development, there are insufficient details to allow a comparison to be drawn, particularly as I do not know if these sites are also in the SIL. These approved developments can therefore be given limited weight. Nevertheless, each proposal must be judged on its individual merits.
18. For the above reasons, I conclude that in both Appeal A and Appeal B, the proposals would cause harm to the SIL. Consequently, in both cases, there would be conflict with Policies GG2, GG5, E4, E5 and E7 of the LP. When taken together, amongst other things, these policies seek to safeguard SILs with sufficient industrial space to support economic development and make the best use of land.

¹ Council Ref: 178393FUL

² Example 1 – Council Ref: 212831FUL

³ Example 2 – Council Ref: 210097FUL

19. Appeal A would also conflict with Policy 4A of the DPD, the purposes of which have been set out above.
20. The reason for refusal also refers to Policy D4 of the LP, which relates to the delivery of good design, and Policy GG6 of the LP which seeks to increase efficiency and resilience. Neither of these policies is determinative in the context of this main issue for both appeals.

Car and cycle parking – Appeals A and B

21. Policy T6 of the LP sets out that car-free development should be the starting point for all proposals, but this is in places that are well-connected by public transport. The appeal site has a Public Transport Accessibility Level (PTAL) rating of 1b which indicates poor access to public transport and would not be described as well-connected for the purposes of Policy T6. Furthermore, I have no mechanism before me to ensure the proposals would be car-free. Nevertheless, even where car-free development is proposed, Policy T6 still requires disabled parking to be provided. No parking would be provided in either proposal.
22. Each proposal would provide additional seating for the café which would allow for more customers to visit. I accept that local employees and other users of the SIL could make use of the proposals and could therefore walk to the appeal site minimising the need to travel. However, even if the proposals are intended to serve the surrounding premises only, this could not be effectively controlled and managed. Given the low PTAL score, customers from outside of the area could choose to visit the site travelling by car which would give rise to additional parking demand.
23. No cycle parking is proposed. However, this issue could be made acceptable and resolved by the imposition of a planning condition, as there is space at the front of the building for cycle storage to be provided.
24. Should the appeal succeed, details regarding cycle parking could be secured by planning condition to accord with Policy T5 of the LP which amongst other things, requires proposals to help remove barriers to cycling.
25. Whilst I have found appropriate provision for cycle parking could be provided, for the reasons given above, appropriate provision for car parking would not be provided. The proposals would therefore conflict with Policy T6 of the LP.

Character – Appeal B only

26. The appeal site relates to a single storey unit, which forms part of a larger industrial building. It is located within an industrial estate comprising a mix of building types and sizes. Nonetheless, the neighbouring units have relatively simple designs that are reflective of their industrial and commercial character. The pattern of development in the immediate street scene typically consists of buildings that are set back from the road with parking and servicing areas.
27. The extension extends across part of the front of the building and has glazing panels across all elevations with a retractable canopy. As a result of its depth and length, the overall scale and mass of the extension are such that it forms a prominent feature. It is also very close to the front boundary which increases its dominance in the street scene.

28. Front extensions in this part of the street scene do not form part of the overriding character, and none of the neighbouring units have front extensions like the proposal. As a result of its siting, the extension is contrary to the pattern of development. The extension therefore represents a visually discordant and incongruous feature. This would not be successfully mitigated through the materials matching those of the surrounding properties.
29. I recognise the somewhat uncoordinated character resulting from a variety of uses in the area, however, this is not justification for an extension of this design in this location. Although there are other front extensions in the wider area, I have not been provided with details of their planning status. Notwithstanding this, each proposal must be judged on its individual merits. These examples do therefore not weigh in support of the proposal.
30. The appellant has drawn my attention to an approved development at 15 Aintree Road⁴. I have not been provided with the approved plans and the description of development does not refer to a front extension. This approval can therefore be given no weight.
31. The reason for refusal also refers to harm to the SIL from the front extension. The Council has not provided any robust reasoning to explain how the extension's design, scale, siting and relationship to the site boundaries would cause harm to the SIL. Although the appeal site is within the SIL, in the absence of evidence to reach a contrary view, the extension when viewed in isolation in terms of its design and not having regard to its use, does not compromise the integrity and effectiveness of the SIL. In this regard, the extension as a physical structure alone would not conflict with Policy E5 of the LP.
32. For the above reasons, I do however conclude the proposal causes harm to the character of the area. Accordingly, it conflicts with Policies 7.4 and 7B of the DPD. Whilst the appeal site does not have any heritage designations, these policies amongst other things, require development to complement the building pattern and scale and have a positive visual impact. The proposal would also not meet the aims of the Framework which requires developments to be sympathetic to the local character. Whilst the Framework sets out that appropriate change should not be prevented or discouraged, the proposal would not be an appropriate change.
33. The reason for refusal also refers to Policy 7D of the DPD which relates to open space and Policies D1 and D4 of the LP which are concerned with area assessments, the preparation of Development Plans and design analysis and development certainty. These policies are not determinative in the context of this main issue.

Other Matters

34. In both appeals, the appellant refers to an appeal precedent. Based on the details provided, this case relates to a variation of condition application for the sale of food and drink and concluded that a sequential test was not required. This is different to the appeal proposals which relate to a change of use and

⁴ Example 1 - Council Ref: P/2015/1304

extension, and whether a sequential test is required is not a matter under consideration. This referenced case is not relevant to the appeal proposals.

Planning Balance

35. Appeal A and Appeal B would conflict with the development plan as a whole.
36. In Appeal A, a vacant building would be brought back into use. In both appeals, the proposals would be supported by parts of the Framework in allowing the existing café business to expand, supporting economic growth, providing employment opportunities, and making use of a brownfield site. Whilst the Framework sets out that developments should optimise the potential of the site and significant weight should be placed on the need to support economic growth, this must be balanced against the harm that would be caused to the SIL which also provides economic and employment benefits and has strategic protection.
37. Both proposals would provide employment opportunities and there would also be benefits arising from visiting customers who may bring some trade to other businesses. Nearby workers and customers would be able to walk to the proposals, however, the proposals could also attract more customers travelling to the site by car with no parking provided. This therefore limits the weight given to these benefits.
38. Several letters of support have been provided in both appeals and it is clear that the existing café is well-used by other businesses in the area.
39. The payment of any business taxes and rates would be required under the relevant legislation and requirements and this is therefore of neutral weight.
40. Taken together, these benefits attract only moderate weight given the quantum of development under consideration and would not outweigh the harm I have identified, in both Appeal A and Appeal B, including the conflict with the development plan.

Conclusions

41. The proposals in Appeal A and Appeal B conflict with the development plan and the material considerations do not indicate that the appeals should be decided other than in accordance with it. Therefore, Appeal A and Appeal B are dismissed.

L Reid

INSPECTOR